



MINUTES OF AN OFFICIAL MEETING

Regular Meeting of: Legislative & Licensing Committee

Date and Time: Tuesday, January 19, 2021 at 7:00 pm

Location: Council Chambers, City Hall, 2000 N. Calhoun Road, Brookfield WI 53005

Members Present: Alderman Gary Mahkorn (Chair), Alderman Brad Blumer, Alderman Bill Carnell, Alderman Jenna Meza, Alderman Mark Nelson by phone

Members Excused: None

Others Present: City Attorney Jenna Merten, City Clerk Kelly Michaels

1) ROLL CALL

Alderman Mahkorn noted a quorum present and called the Legislative & Licensing Committee to order at 7:00 p.m.

2) ANNOUNCEMENTS

The Next Regularly Scheduled meeting will be held on Tuesday, February 2, 2021.

3) MINUTES

Motion by Alderman Blumer, seconded by Alderman Carnell, to approve the minutes of the December 15, 2020, Legislative & Licensing Committee meeting. Motion carried 5-0.

4) NEW BUSINESS

[a. Resolution regarding an applicant for an Original Bartender/Operator License with violations.](#)

Nappo, Cari A.

Cari Nappo appeared before the committee and introductions were made. Ms. Nappo wanted clarification that she was asked to appear before the committee because of an OWI violation that she received in 2015.

Alderman Mahkorn replied that the committee is given a 'rap sheet' of violations an applicant has. Ms. Nappo said the application indicated violations within the past 5 years; therefore, she only include those.

Ms. Nappo stated the OWI on record was a crazy situation. She has been tending bar for 24 years and was bartending in West Bend when she received that OWI. She had a couple of drinks after her shift and was on the prescription sleeping medication, Ambien, which she is no longer on. She indicated that she knowingly took her medication and alcohol together. The violation happened in January and she had no contacts, shoes, etc., and was not driving at the time. She was given an OWI because of the mix of alcohol and medication she had consumed. She admitted it was her fault for taking the medication and alcohol together, but did not realize how potent the medication was and possible side effects.

4) NEW BUSINESS.... continued

a. Resolution regarding an applicant for an Original Bartender/Operator License with violations.

Ms. Nappo added she complied with all the sentencing requirements regarding the OWI. She said she has received her driver's license back and is currently in an alcohol assessment class. Alderman Mahkorn asked what type of services Ms. Nappo took part in, after her conviction. Ms. Nappo stated she took a 1-year program in Jackson and graduated. She took an Alaris program in West Bend, which is a driver safety program that addresses addictions. Participants work with counselors in groups.

Alderman Mahkorn asked what Ms. Nappo was drinking the night of her arrest. Ms. Nappo stated 'Fire Ball'. She noted she was under a lot of stress. The man she was dating at the time was not who she thought he was. She is originally from Maine where her two children and grandchild still live. When she moved to Wisconsin to help her mother, her daughter came with her. She indicated she wanted to start her life in Wisconsin along with her boyfriend. However, the family dynamics were not good, as her household included herself, her boyfriend, her daughter and her boyfriend.

Alderman Mahkorn asked what Ms. Nappo's BAC was. Ms. Nappo said she thought it was .013. She said she had two or three shots. She stated she was in her car in the parking lot next to her house and her boyfriend called the police on her.

Alderman Carnell asked if Ms. Nappo could explain the charge of 'Throw/Discharge Bodily Fluid at Public Safety Worker'. Ms. Nappo replied 'no, she could not'. She stated there was six body cameras on all of the officers and there was no footage of her throwing or discharging any bodily fluids. She stated it is not her. She stated she does not spit and tried hard to fight the charge. She remembers getting over a cold but not spitting.

Alderman Blumer noted that it is not committee's position to pass judgement on things that have happened in the past, but to review her ability to be a responsible bartender. Given the time frame and the OWI being the only charge, he noted he could see that Ms. Nappo has perhaps 'turned over a leaf'. However he does not understand the violations since the OWI violation, which include bail jumping, defective speedometer, property damage, probation violation and operating while revoked. Ms. Nappo stated she does not understand the property damage charge, as she has never been in an accident. Alderman Mahkorn clarified that it could have been a minor accident with damage to a vehicle. Ms. Nappo stated she would look into it as she has never been in an accident. Regarding the bail jumping, she had gotten into a fight with her boyfriend and he called the police on her. The 'Operating after Revocation' happened when she was taking her mother to a doctor's appointment and was pulled over.

Ms. Nappo stated before the OWI violation, her record was clean for 15 to 20 years. Alderman Mahkorn stated that she had an OWI in 2004. If she did not have the violation in 2015, she would not be appearing before the committee tonight. Alderman Mahkorn stated the committee does not judge, but looks at a person's ability to have a certain set of standards. One is being responsible when serving alcohol to people that have had too much to drink or are underage. They are looking for a person who has good judgement when handling alcohol. He noted that if a license is issued, she could use that license at any licensed establishment in the city. If the committee makes the wrong judgement concerning bad judgement, it affects our community.

Alderman Mahkorn noted he is not prepared to approve a license tonight due to the totality of the circumstances. He felt Ms. Nappo was 'blowing off' state ordered sentencing requirements. Ms. Nappo stated she does not go anywhere and no longer drinks.

Alderman Meza asked why Ms. Nappo was pulled over in May of 2020. Ms. Nappo stated she was driving 45 MPH in a 40 MPH zone. Six officers and a canine unit showed up.

Motion by Alderman Carnell, seconded by Alderman Meza, to DENY an Original Bartender/Operator Licenses for Cari Nappo. Motion carried 5-0.

b. Resolution regarding applicants for Original Bartender/Operator Licenses.

Lilley, Kayla M.

Wilkes, Darren B.

Motion by Alderman Carnell, seconded by Alderman Meza, to approve Original Bartender/Operator Licenses for the above applicants. Motion carried 5-0.

c. Resolution regarding an applicant for an Original Class B Beer and Liquor License.

Perseverance Corporation

D/b/a: The Badger Burger Co.

12455 W. Capitol Drive, Unit 14

Agent: Mark A. Weiss

Motion by Alderman Nelson, seconded by Alderman Meza, to approve an Original Class B Beer and Liquor License for the above applicant. Motion carried 5-0.

d. Staff Report: Absentee Voting Efficiency Option (AVEO) Legislation Update.

Mayor Ponto noted Clerk Michaels has been the primary component of this legislation and he has gone with her to the State capitol on several occasions to support having this legislation instituted. We see in- person absentee voting increasing with every election and the real advantage of AVEO, to him, is that the voter puts their own ballot into the machine. If there is an error on the ballot, the machine will eject the ballot out for the voter to correct. Additionally, by putting the ballot in a tabulating machine, the voter knows their ballot has been counted. This is important psychologically and provides confidence in the election process. One of the aspects of this legislation is that the new majority leader in the state senate is a sponsor of the 'Monday Bill', which would allow communities, who wanted to, to begin counting absentee ballots on the Monday before Election Day. There are some disadvantages to that bill, such as reporters may start commenting on what they have seen for Monday vote counts before the Tuesday election which may have an influence on Election Day, one way or the other. The other disadvantage is that clerk's do not have time on the Monday before the election to supervise the counting of ballots, as they are busy getting polls and staff ready for Election Day.

Clerk Michaels understands these issues as she has spoken to state legislators who have indicated it may be advantageous to merge the AVEO and Monday bills in order to build support. Mayor Ponto noted the AVEO legislation is a good thing for Brookfield and our voters who vote absentee in-person.

Alderman Blumer felt there was a broad partisan support for years on previous AVEO proposals and questioned why there is a change on how the AVEO bill is being heard? Clerk Michaels explained that there was wide support of AVEO and the assembly passed it last year. It was messaged to the senate and the leadership at that time failed to put it on the floor agenda; then COVID hit and all election bills died as they never met again in the session. This year, there is new leadership on the senate side in that Devon LaMahieu is the majority leader. Unfortunately he has always opposed AVEO and support his bill, the early processing of ballots on Monday. Numerous legislatures and lobbyists' have contacted me to say the AVEO bill which has a good chance of passing, will never be put on an agenda because the leadership who has opposed it will block it from the

d. Staff Report: Absentee Voting Efficiency Option (AVEO) Legislation Update (continued)

agenda. They've suggested that the best way for clerks to get AVEO would be to merge it with the Monday bill. Conversely, the leadership on the Wisconsin Municipal Clerks Committee had initially opposed the Monday bill. However, since the November election, more clerk's across the state see value in one or the other option. So there is a changing thought on the Monday bill overall; however, clerks continue to want to see improvements on last year's bill because there was not a lot of security or process to it. In merging the two bills, it would add more security to the Monday bill and perhaps make it more palatable to those clerks who had opposed it. She noted that she does not see Brookfield using the Monday Bill because she is quite busy the Monday before and will not have the time for this process; however, both bills are optional which would give the municipality's elected officials the opportunity to choose the method they feel would work best. Possibly 10 years from now things may change, and the Monday Bill will be a valuable option. The committee could reassess and at that time, could approve either process, both processes or neither process. You can change your mind at a subsequent date if the situation calls for it. It would be an optional process statute if adopted.

Alderman Nelson stated it is his understanding that, currently, poll workers open the absentee ballots and feed them into the machine on Election Day. He asked if we go with AVEO, where absentee ballots are voted one to two weeks before, and are fed into the machine; what procedures do we have in place to stop someone from finding out about vote counts or ballots being opened the Monday before the election. He feels there are similar problems with both procedures. Clerk Michaels noted the difference is that during AVEO, the ballot is not tabulated when fed into the machine. It remains secret until Election Day when it is counted during the tabulation after polls close. The Monday Bill has a process similarly in that the ballots are fed into the machine, however poll workers are opening ballots and they could get some sense throughout the day on who is winning or losing. Alderman Nelson summarized that the AVEO process does not involve poll workers so no one but the voter themselves know how someone has voted. It is very secret and all votes are tabulated on Election Day. Clerk Michaels confirmed his understanding. She noted both processes tabulate when polls close on Election Day and both processes involve feeding the ballot into the machine, however with the Monday bill, it is a process handled by poll workers who would gain a sense of who is winning or losing whereby with AVEO it is fed into the machine by the voter themselves.

Clerk Michaels stated she is not interested in the Monday bill but is very interested in AVEO. She felt the merging of the two bills is a compromise, where you get one by supporting the other. However, they are both options so you are not forced to use either process. Alderman Nelson noted this would be up to the city. If this went forward for the legislature to consider and both passed, the City of Brookfield could opt to use AVEO but not the Monday Bill. Michaels indicated correct.

Alderman Mahkorn added that with AVEO we are getting a lot as it is a system of checks and balances. When someone votes early, they know their vote has been tallied. This is a big issue because we hear horror stories across the country about ballots that are subject to question. In some jurisdictions, that may be more 'loosely' run, the people tallying the votes may take it upon themselves to say 'this is the voter's intent'. With AVEO, if a voter makes an error, the voter can correct right away and without any speculation on voter intent as the voter is right there to say 'this is my intent'. He believed the AVEO bill provided a 'win/win' for the voter and the municipality. The municipality has an opportunity to exercise the Monday bill or not. When you have good clerks who are trying to do their jobs efficiently on very busy, strenuous days and are getting more pressure packed with each election, you do not want to be 'bogged' down. He noted his support of the AVEO bill.

The consensus of the committee was to support the Clerk and Mayor's efforts in getting the legislation passed.

e. [Legislative Referral: Modify the city's leaf and yard waste ordinance.](#)

(Specifically, the use of permits for burning. Referred by: Alderman Blumer)

Alderman Blumer stated the committee has received a lot of feedback on changes made to the burning ordinance. There is a perception that the changes to the burning ordinance came very quickly. The original legislative referral came in 2019, so this item has been discussed in detail. The feedback that we have received include aspects of changes to the ordinance that people do not like and a percentage of people that prefer no burning at all. Those that do burn their yard waste do not necessary like to burn however it is a way to get rid of it. He made the legislative referral as he felt the committee needed to talk about it again. Perhaps the plan is to develop a long-term vision on what we want to see happen with yard waste disposal in general. He stressed that whatever the city does, it should not be done in a hurry. Alderman Blumer stated he would like to see the committee and council develop a long-term plan on yard waste disposal or do scattered updates to the ordinance.

Alderman Mahkorn stated the committee wanted to get something in place for the 2020 fall burning season. He appreciates the discussion the committee has had on the burning issue. He looks at this item tonight as a directive to send this back to the Board of Public Works as all the discussions considered the feelings of the community last fall. We realized we would not come up with a perfect solution and there are much bigger decisions to be made regarding leaf burning such as yard waste pickup, which is costly. The Board of Public Works has weighed in on that multiple times. He indicated Alderman Blackburn would like to see a healthier, substantial discussion on what yard waste pickup would look like as we all agree that we cannot just ban burning outright. There are people in the community that have many mature trees and a lot of yard waste. He suggested the Legislative & Licensing Committee and Board of Public Works have a special joint meeting on just this topic.

Alderman Nelson agreed with Alderman Mahkorn and appreciated the legislative referral regarding permits. He noted an email he received from a woman who is against leaf burning but wanted to burn brush. This is a complex issue.

Alderman Owen agreed stating the opportunity to explore is now as contract renewals are coming due at the end of 2021.

Motion by Alderman Carnell, seconded by Alderman Meza, to postpone this item to no later than May 1, 2021. Motion carried 5-0.

5. ADJOURNMENT

**Motion by Alderman Carnell, second by Alderman Meza to adjourn the meeting. Motion carried 5-0.
Meeting adjourned at 7:55 p.m.**

RESPECTFULLY SUBMITTED:

KELLY MICHAELS, MMC, WCPC
CITY CLERK'S OFFICE, CITY CLERK